

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAVIER GONZALEZ,)	
)	Civil Action
Plaintiff)	No. 05-CV-01677
)	
vs.)	
)	
JOHN PALAKOVICH,)	
THE DISTRICT ATTORNEY OF THE)	
COUNTY OF PHILADELPHIA and)	
THE ATTORNEY GENERAL OF THE STATE))	
OF PENNSYLVANIA,)	
)	
Defendants)	

O R D E R

NOW, this 27th day of April, 2007, upon consideration of the Form for Use in Applications for Habeas Corpus Under 28 U.S.C. § 2254, which form was filed on August 14, 2006; upon consideration of the Response to Petition for Writ of Habeas Corpus, which response was filed on November 15, 2006; upon consideration of the Report and Recommendation of United States Magistrate Judge Thomas J. Rueter, filed on January 26, 2007; upon consideration of Petitioner's Objection to the Magistrate's Report and Recommendation, which objection was filed on March 16, 2007; it appearing that petitioner's objections to Magistrate Judge Rueter's Report and Recommendation, which are articulated in Petitioner's Reply to Respondents' Answer to Petition for Writ of Habeas Corpus, are a restatement of issues disposed of by Magistrate Judge Rueter's Report and Recommendation; it further appearing after de novo review of this matter that Magistrate Judge Rueter's Report and Recommendation correctly determined the

legal and factual issues presented in the petition for habeas corpus relief,

IT IS ORDERED that Magistrate Judge Rueter's Report and Recommendation is approved and adopted.

IT IS FURTHER ORDERED that petitioner's objections to Magistrate Judge Rueter's Report and Recommendation are overruled.¹

IT IS FURTHER ORDERED that the pro se petition for habeas corpus relief is dismissed without a hearing.

IT IS FURTHER ORDERED that because petitioner fails to demonstrate either denial of a constitutional right, or that reasonable jurists could debate whether his petition should be

1. When objections are filed to a magistrate judge's report and recommendation, I am required to make a de novo determination of those portions of the report, findings or recommendations made by the magistrate judge to which there are objections. 28 U.S.C. § 636(b)(1); Rule 72.1(IV)(b) of the Rules of Civil Procedure for the United States District Court for the Eastern District of Pennsylvania. Furthermore, district judges have wide latitude regarding how they treat recommendations of the magistrate judge. See United States v. Raddatz, 447 U.S. 667, 100 S.Ct. 2406, 65 L.Ed.2d 424 (1980). Indeed, by providing for a de novo determination, rather than a de novo hearing, Congress intended to permit a district judge, in the exercise of the court's sound discretion, the option of placing whatever reliance the court chooses to place on the magistrate judge's proposed findings and conclusions. I may accept, reject or modify, in whole or in part any of the findings or recommendations made by the magistrate judge. Raddatz, supra.

As noted above, I conclude that petitioner's objections to Magistrate Judge Rueter's Report and Recommendation are nothing more than a restatement of the underlying claims contained in his petition for habeas corpus. Moreover, upon review of the Report and Recommendation, together with de novo review of this matter, I conclude that the Report and Recommendation correctly determines the legal issues raised by petitioner.

Accordingly, I approve and adopt Magistrate Judge Rueter's Report and Recommendation and overrule petitioner's objections to the Report and Recommendation.

resolved in a different manner, a certificate of appealability is denied.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case closed for statistical purposes.

BY THE COURT:

/s/ James Knoll Gardner
James Knoll Gardner
United States District Judge